

**DEC 16 2005**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

MOHAMMAD EJAZ KHAN,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 03-74621

Agency No. A79-633-467

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted December 5, 2005<sup>\*\*</sup>

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Mohammad Ejaz Khan, a native and citizen of Pakistan, petitions for review of the Board of Immigration Appeals' ("BIA") decision, which summarily affirmed the Immigration Judge's ("IJ") order denying his application for asylum,

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

withholding of removal, and relief under the Convention Against Torture (“CAT”).

We dismiss in part, and deny in part this petition for review.

We lack jurisdiction to consider Khan’s challenge to the IJ’s denial of voluntary departure, and we dismiss the petition with respect to this claim. *See Tovar-Landin v. Ashcroft*, 361 F.3d 1164, 1166 (9th Cir. 2004).

We have jurisdiction over Khan’s remaining claims under 8 U.S.C. § 1252. Where, as here, the BIA affirms without an opinion, we review the IJ’s decision directly. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845, 849 (9th Cir. 2003). We review for substantial evidence an adverse credibility determination. *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001).

The IJ offered specific, cogent reasons for his credibility determination. Therefore, substantial evidence supports the IJ’s credibility determination. *See id.* at 1043.

Because Khan did not establish eligibility for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Khan, who is represented by counsel, made no argument in his opening brief regarding the denial of CAT relief, and so has waived the right to challenge this determination. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60

(9th Cir. 1996).

Khan's contention that the BIA's summary affirmance is a violation of due process is foreclosed by *Falcon Carriche*, 350 F.3d at 849-52.

**PETITION FOR REVIEW DISMISSED in part, and DENIED in part.**